

BONES BROTHERS RANCH

BIRNEY, MONTANA 59012



Airports and Railroad Stations: Sheridan, Wyoming, and Forsyth, Montana

Telegraph and Express Address: Sheridan, Wyoming

Telephone: Area 406-984-2505

SENATE FINANCE & CLAIMS
Cattle

Exhibit No. 10

Date 3-18-09

Bill No. SB 505

Testimony in Opposition to SB505

My name is Jeanie Alderson. I am from Birney, Montana. Our family homesteaded in southeastern Montana in the late 1880s. We have learned to ranch in this arid and fragile landscape. Our life and business depend upon grass and water – particularly free-flowing springs, the only source of water for much of our land. These springs are vital because unlike other water sources, they are not susceptible to drought. Unfortunately, they are susceptible to the Coal Bed Methane industry. *The MT Draft Oil & Gas Environmental Impact Statement* explains, "Although the use of groundwater only represents 3% of the total water use it is extremely critical because it provides almost 100% of the domestic water used in farmsteads and constitutes the largest dependable stock water, because it is not seasonal or drought affected." This groundwater is the same water that is currently being pumped to the surface as the CBM is gathered.

SB 505 introduced by Senator Keith Bales (R-Otter) gives away our rights to this groundwater. This bill tries to say that water originates in the pipe. This point of origination means that senior water rights holders can no longer protest these "temporary" permits. And these permits are not temporary. They last until "water produced in association with coal bed methane is no longer available." Essentially, we will lose our water rights and we will have to go to the CBM industry for the water that was ours.

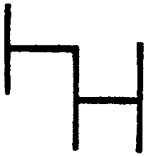
Please vote NO on SB 505.

Jeanie Alderson

406 984 6229

email: jcazc@rangeweb.net





Horses

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Cattle

Testimony in opposition to SB 505 – March 18, 2009

My name is Terry Punt and I live and work at Bones Brothers Ranch in Birney, Montana, which my family homesteaded in the 1880's. I regret that I cannot be here today as we are calving. I have been involved in this coalbed methane issue as an objector to Fidelity's previous attempts to allocate our groundwater since their first application in 2001. I participated in the DNRC hearing that took place in March 2007 in which Fidelity applied for 6680 acre feet of "produced" water a year to market to others.

The objectors' argument is that this water right should be given to the mines for dust suppression and to the landowners for domestic and stock water use, not to Fidelity, an out-of-state energy company with no use for the water. We, also, believe that the amount Fidelity filed for was excessive and would interfere with senior groundwater rights holders' water sources. The DNRC erroneously granted Fidelity part of this permit. The Tongue River Water Users Association and the Northern Plains Resource Council, of which I am a member, challenged this decision in state district court. There, Judge Thomas Honzel, ruled that the source of the water is ground water and in fact did not originate in Fidelity's pipeline. Judge Honzel remanded the decision back to the DNRC and Fidelity has not appealed this decision. Instead, the company convinced Rep. Bill McChesney to introduce House Bill 575 and now Sen. Keith Bales' bill Senate Bill 505, which both seek to circumvent the judge's ruling at the expense of senior water right permittees. These "water theft" bills give Fidelity a "last in time, first in right" claim to groundwater, contrary to 140 years of Montana water law.

The groundwater withdrawn from oil and gas operations is under the Board of Oil and Gas Conservation division of the DNRC and has worked well with traditional oil and gas development where the wells are very deep and not the source of prior groundwater appropriations. Coalbed methane wells are different in that they are in the same aquifers as those that have been used by ranchers in this area since homesteading days and who hold senior water rights. They only use the amount of water necessary for those purposes.

The goal of the methane companies is contrary to this conservative use of the water. Their goal is to drain these aquifers entirely and get all of the methane gas. They are currently allowed to waste most of this water into the Tongue River through discharge permits. They will argue that the passage of this bill will keep this water from being wasted and polluting the river by letting the landowners and mines use this water. This would be true if they



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reduced their discharge permits to reflect the water they'd like to contract to these ranchers and mines, but sadly this is not part of this bill. I would argue that the discharges themselves are illegal as they are depleting the rights of senior groundwater rights holders.

As a rancher, I value these precious groundwater resources. We have entire pastures where natural springs and free flowing artesian wells are our only sources of water. They do not require electricity and require very little maintenance. The Montana statewide oil and gas EIS states that "...these aquifers provide almost 100 percent of the water for domestic and stock water uses in this area because they are not affected by season or drought". Mitigation agreements will not restore these time-honored sources of water that may be lost through CBM production.

There will be some ranchers before you today who will claim they want to use this water. They should file on this groundwater, which is produced in association with CBM development, not the CBM industry who under this bill will control the spigot. We are confident and content that Mother Nature will provide the water we need to stay in business, but only if we use it wisely and don't extract it in massive volumes which will take many years to recover. We don't want our water under the control of an out-of-state company with only a mineral lease at stake and no long-term commitment to our prosperity.

Please vote NO on this bill, which will not solve one of the many water issues involved with CBM extraction. Please feel free to call me at 406-984-6229 if you have questions. Thank you.

Terry Punt

Terry Punt

Birney, Montana

Mr. Chairman, members of the finance and claims committee.

I am sorry that I cannot make it to Helena to testify. I must stay home and tend to my cattle while they are calving.

Coal Bed Methane (CBM) water is groundwater pure and simple. It has been taken from senior water right holders by the methane industry. Now that it has been stolen should we give the company a water right to give this water to someone else?

Senior water rights holders must be protected. If their well is going to be affected by a new water right application, they should be able to object.

CBM operators do not own the surface and only rent the minerals. How can a company that leases the minerals for a few dollars an acre have the right to take our water?

When you or I get a water right it is based upon usage and the point of diversion is at each well. This bill does not require that the developer get a water right for each well. It lumps all the wells in a development field together.

This bill puts the management of this water into the purview of the Board of Oil and Gas (BOGC). This is a disaster—that agency is only concerned with oil and gas. Water has been and should always be managed by the Water Division of DNRC. Two separate agencies cannot manage the water of the State of Montana.

We have no problem with landowners applying for a beneficial use and a water right to CBM wastewater. We live in this part of the state and we truly understand how precious the water is. That is why we are adamantly opposed to the CBM industry being allowed to get even a temporary permit for the wells that they drill.

This bill has no provisions to protect senior water rights holders. This bill will overturn water rights law that has prevailed in Montana and the West for 140 years. Northern Plains is not opposed to the development of coal bed methane – we have only ever asked that the industry “do it right.” To us that means many things, but protection of our precious water and the rights of senior water rights holders is on the top of the list.

We strongly urge you to vote against this water theft bill.

Sincerely,

Mark Fix

Rancher, Irrigator, Senior water right holder and chair of the CBM Task Force for the Northern Plains Resource Council